

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE:)	
JEFFERSON COUNTY,)	
ALABAMA, a political subdivision)	
of the State of Alabama,)	Case No.: 11-05736-TBB9
)	Chapter 9 Proceeding
)	
Debtor,)	
)	

**OBJECTION TO AUTOMATIC STAY OF CIVIL RIGHTS ACTION
AGAINST MULTIPLE DEFENDANTS, INCLUDING SHERIFF MIKE
HALE, PROBATE JUDGE ALAN KING, AND CIRCUIT CLERK ANNE-
MARIE ADAMS, OR IN ALTERNATIVE, MOTION FOR RELIEF FROM
AUTOMATIC STAY**

Petitioner Patricia Working, Rick Erdemir, and Floyd McGinnis, as well as their undersigned counsel Albert L. Jordan and the law firm of Wallace Jordan Ratliff & Brandt, LLC (collectively “Plaintiff”) hereby respectfully object to the automatic stay of the pending voting rights lawsuit in the Jefferson County, Alabama circuit court, under the style, *Working v. Jefferson County Election Commission*, No. CV-08-900316. Plaintiffs suit is the cost proceedings seeking attorneys fees pursuant to the Civil Rights Attorneys Fees Awards Act, 42 U.S.C. § 1988 for being a prevailing party in an action to enforce voting rights in connection with the filling of the vacancy on the Jefferson County Commission in 2008. That suit resulted in an injunction which barred an

election in February 2008, and required it to be conducted in November 2008. Jefferson County is not a defendant.

1. Plaintiff seeks a ruling from this Court that the automatic stay imposed by the Jefferson County's bankruptcy does not apply to Plaintiff's case against Sheriff Hale or any of the other defendants in the *Working* case. The plain language of §§ 362(a) and 922(a) does not extend the stay to non-debtors.

2. The *Working* case sought relief against the persons who conduct elections: the Sheriff, the Probate Judge, and the Circuit Clerk. They are sometimes known by statute as the Jefferson County Election Commission, and they conduct elections where voters in the geographic boundaries of Jefferson County may cast ballots to select government officials for national, state, and county offices. It is well-established that these defendants are not agents of Jefferson County. *See, e.g., Turquitt v. Jefferson County*, 137 F.2d 1285 (11th Cir. 1997)(not liable for Sheriff's jail conditions).

3. *Working*, Erdemir and McGinnis, through attorney Jordan, prevailed on the underlying merits in 2008 in a decision reported by the Supreme Court of Alabama reported as *Working v. Jefferson County Election Commission*, 2 So.3d 827 (Ala. 2008). Again in 2011, Plaintiff reversed a refusal by the Jefferson County Circuit Court to order mediation of the attorneys fees dispute reported as *Working v. Jefferson County Election Commission*, 2011 WL 1522316 (Ala. April 22, 2011). The action

remains pending in the Jefferson County Circuit court. No mediation has been conducted, and Plaintiffs claim for attorneys fees and costs are unpaid.

4. Jefferson County provides funds for the operation of the office of Sheriff, the office of the probate judge, but this occurs in a legislative budgeting process which is subject to the discretion of the Jefferson County Commission. *See* Ala. Code § 11-8-3. This is not the kind of financial relationship which is subject to the stay, as there is no judicially enforceable guarantee of funding. *Cf., Donarumo v. Furlong*, 660 F. 3d 81 (1st Cir. 2011).

5. Alternatively, Plaintiff moves for relief for the operation of the automatic stay, if it applies. Plaintiff near the conclusion of an extended litigation which is required by state law to be resolved if possible by mediation. There is no preliminary bankruptcy issue to be resolved in a manner that weighs against relief. There is no reason to believe that Jefferson County will incur any expense as a result of the Sheriff, the Probate Judge, and the Circuit Clerk, or them acting as the Jefferson County Election Commission, engaging mediation. In addition, these officials are sued in their individual capacities, and the judgment for fees can be against them in their individual capacities.

For these reasons, this Court should find that the automatic stay does not apply to any of Plaintiff's claims in this pending civil rights lawsuit. In the alternative, Plaintiff requests that this Court grant him relief from the stay and allow the attorneys

fee claim in that case to proceed in the Jefferson County Circuit Court, and otherwise as permitted by state law in the Alabama Supreme Court if again needed, and for such other relief as may be just and proper.

Respectfully submitted,

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I hereby certify that I have on December 9, 2011, I served a copy of the foregoing Objection by e-mail or U.S. first class mail postage prepaid to the following in accordance with the master service list using the CM/ECF system.:

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